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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 13.10.2006.

Partap Chand .... Petitioner.

vs

Gram Panchayat, Nandha, and another ... Respondents

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Sandeep Kumar Yadav,Advocate,for the petitioner.

Kiran Anand Lall, J.

The respondent-Gram panchayat was held to be owner of the suit property by virtue of decree dated 9.11.2004 passed in civil suit no.1088/99/2001, titled “Gram Panchayat, Nandha, vs Prixit”. When the Gram panchayat tried to take possession of the property, in execution of the decree, petitioner filed a civil suit, restraining it from taking its forcible possession from him, pleading that the property is, infact, in his possession and he cannot be dispossessed therefrom, in pursuance of a decree, to which he was not a party. He asked for grant of interim relief of temporary injunction also, but, at a later stage, it appears, he asked for restoration of possession of the property, stating that he was dispossessed during the pendency of the suit and was as such, entitled for restoration of its possession.

Both the courts declined to grant interim relief to the petitioner, observing that he had encroached upon the land of the gram panchayat, and it was his unauthorised possession which was removed on 23.11.2005, in execution of the decree dated 9.11.2004 (supra). It was held that in view of such facts no case for restoration of possession was made out.

There is no document of any type, reflecting petitioner's

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ownership over the suit property. As mentioned in the order of the appellate court, even complete description of the suit property was not given in the plaint nor it was mentioned therein as to whether the property fell within or outside the village-abadi. The respondent-Gram panchayat, on the other hand, had specifically pleaded that the suit property bears Ahata no.59, khasra no.78. The claim of the petitioner that he was in possession (as owner) of the suit property since the time of consolidation of holdings, also, did not get support from any document. It is also in the order of the appellate court that notices under Sections 24 (1) and (2) of the Haryana Panchayati Raj Act had also been issued to the petitioner, in pursuance of resolutions passed by the Gram-panchayat, before taking possession of the property (belonging to the Gram-panchayat), from him.

Be that as it may, the fact remains that petitioner is no more in possession of the property. There is also no document on record, so far, in support of his case that the suit property had been in his possession since the time of consolidation of holdings. That being so, no case for the exercise of extra-ordinary powers under Article 227 of the Constitution of India, for interfering with the impugned orders of the courts below declining to grant the interim relief of temporary injunction and also refusing to restore possession of the property, to him (during the pendency of the suit), is made out.

The petition shall stand dismissed, in limine. However, nothing contained in this order would be taken as a reflection on the merits of the case.

13.10.2006. (Kiran Anand Lall)
vs. Judge.